

PT 95-38
Tax Type: PROPERTY TAX
Issue: Charitable Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
ADMINISTRATIVE HEARINGS DIVISION
SPRINGFIELD, ILLINOIS

DUPAGE ART LEAGUE)
Applicant) Docket #93-22-163
) Parcel Index #05-16-301-039
v.)
) Barbara S. Rowe
THE DEPARTMENT OF REVENUE) Administrative Law Judge
OF THE STATE OF ILLINOIS)

RECOMMENDATION FOR DISPOSITION

APPEARANCES: Patrick Bond, Attorney for the Applicant
Robert G. Rybica, Assistant State's Attorney

SYNOPSIS: The DuPage Art League (the applicant) submitted to the DuPage County Board of Review an Application for Property Tax Exemption. The Board of Review forwarded the application to the Illinois Department of Revenue (the Department). The Department granted the application. The Board of Review of DuPage County requested a hearing in the matter. The hearing was held pursuant to that request. At the hearing the DuPage County Board of Review did not substantiate that the applicant was not charitable. It is therefore recommended that the DuPage County parcel herein question be exempt for the 1993 assessment year.

FINDINGS OF FACT:

1. The Department's position in this matter, namely that DuPage County parcel index number 05-16-301-039 should be exempt for the 1993 assessment year was shown by submission in evidence of Department's Exhibits 1 through 6(b).

2. On August 20, 1993 the Board of Review of DuPage County recommended that the exemption be denied for the parcel herein issue

(Department's Exhibit 2).

3. On August 23, 1993, the Department received the Religious Application for Property Tax Exemption To Board of Review/Appeals - Statement of Facts concerning parcel index number 05-16-301-039 from the DuPage County Board of Review.

4. On August 27, 1993, the Department contacted the applicant requesting that it forward an application to the Department in the proper format. The application initially submitted by the applicant was for religious purposes and religious organizations only (Department's Exhibit 2(k)).

5. On December 1, 1993, the attorney for the applicant submitted an amended form requesting an exemption under Ch. 120, Par. 500.7 (Department's Exhibit 2(l)).

6. On April 21, 1994, the Department granted the exemption request of the applicant (Department's Exhibit 3).

7. On April 29, 1994, the DuPage County Board of Review requested a formal hearing to appeal the Department's decision (Department's Exhibit 4).

8. On August 2, 1994, a Notice of Hearing was issued for a hearing to take place on October 4, 1994 in Chicago, Illinois (Department's Exhibit 5).

9. The Board of Review failed to establish that the applicant was not a charitable organization and that the use of the building was not charitable for the assessment year in question (Transcript (Tr.) 14 - 48).

CONCLUSIONS OF LAW: Article IX, 6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and

charitable purposes.

The statutes of Illinois have provisions for property tax exemptions. In particular, 35 ILCS 205/19.7 (1992 State Bar Edition), (1991 Illinois Revised Statutes, Chapter 120, Paragraph 500.7), exempts certain property from taxation in part as follows:

All property of institutions of public charity, all property of beneficent and charitable organizations, whether incorporated in this or any other state of the United States, all property of old people's homes and facilities for the developmentally disabled, ...when such property is actually and exclusively used for such charitable or beneficent purposes, and not leased or otherwise used with a view to profit;...All old people's homes or homes for the aged or facilities for the developmentally disabled...shall qualify for the exemption stated herein if upon making an application for such exemption, the applicant provides affirmative evidence that such home or facility...is an exempt organization pursuant to paragraph (3) of Section 501(c) of the Internal Revenue Code,...and...the bylaws of the home or facility...provide for a waiver or reduction of any entrance fee, assignment of assets or fee for services based upon the individual's inability to pay,...

Based upon the above facts, testimony and law, it is recommended that DuPage parcel index number 05-16-301-039 be exempt from property tax for the 1993 assessment year.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge

April 20, 1995